

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:	)	
	)	
Syed Rizvi	)	
	)	
Serial No.: 10/780,661	)	Examiner: Ghali, Isis A.
	)	
Filed: February 19, 2004	)	
	)	Art Unit: 1615
For: <b>Feminine Wipe for Symptomatic</b>	)	
<b>Treatment of Vaginitis</b>	)	

**TRANSMITTAL AND REMARKS IN SUPPORT OF**  
**PETITION FOR REVIVAL UNDER RULE 1.137(b)**

**Mail Stop Petition**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Enclosed herewith please find a “Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR §1.137(b),” along with (1) the required petition fee of \$810 under 37 CFR §1.17(m) and (2) the missing fee of \$405 under 37 CFR §1.17(c), which was *unintentionally* omitted from the RCE filed on June 2, 2010.

\* \* \*

In the present application, an Advisory Action was mailed on May 20, 2010. In the Advisory Action, the Examiner “checked” Box 1(b) of such Action, when Box 1(a) should have been “checked.” As outlined in Applicant’s June 2, 2010 Response to the Advisory Action, Applicant confirmed such error – as well as the total Extension of Time fees that would be due in a response to such Advisory Action – with the Supervising Examiner and other personnel at the USPTO. (**Attachment A**).

Although Applicant deemed the very issuance of the Advisory Action to be improper (in view of, among other things, new issues that the Examiner had decided to raise after *four* preceding office actions, based on claim limitations that were present throughout prosecution), Applicant filed its June 2, 2010 Response along with the necessary Extension of Time fees that were due (per the undersigned counsel's discussion with the Supervising Examiner and other personnel at the USPTO). The June 2, 2010 Response addressed the Examiner's last round of issues – and should have placed the then remaining Claims in a condition for allowance. Indeed, the Examiner's last round of rejections were addressed by simply deleting the problematic Claims, such that the remaining Claims would be allowed to issue.

The June 2, 2010 Response also required that a Request for Continued Examination (RCE) be filed, since the prior Office Action had been made final. The RCE was filed along with the June 2, 2010 Response. Unfortunately, however, although the correct Extension of Time fees were paid with the June 2, 2010 Response, Applicant *unintentionally* and *inadvertently* forgot to submit the necessary fee for the RCE under 37 CFR §1.17(e). By this time, the period of time for responding to the USPTO's last Office Action had expired, which eventually resulted in the USPTO issuing its December 17, 2010 Notice of Abandonment. Examiner Ghali contacted the undersigned counsel by telephone on December 7, 2010 to notify Applicant that the application would be designated abandoned, at which time the undersigned counsel advised the Examiner that Applicant would be filing a "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR §1.137(b)," following the USPTO's Notice of Abandonment, which was subsequently issued on December 17, 2010.

Accordingly, Applicant hereby respectfully requests that the present application be revived and, in view of the Amendments and Remarks submitted in the June 2, 2010 Response, that Claims 1, 5, and 8-10 be allowed to issue.

Respectfully Submitted,

/James Surber/

Reg. No. 48,381

P.O. Box 4442

Chesterfield, MO 63006

T: 314.910.2390

Dated: February 1, 2011

## **ATTACHMENT A**

## REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL (Submitted Only via EFS-Web)

Application Number	10780661	Filing Date	2004-02-19	Docket Number (if applicable)		Art Unit	1615
First Named Inventor	Syed Rizvi			Examiner Name	Ghali, Isis A.		

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

### SUBMISSION REQUIRED UNDER 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_

☐ Other \_\_\_\_\_

☒ Enclosed

☒ Amendment/Reply

☐ Information Disclosure Statement (IDS)

☐ Affidavit(s)/ Declaration(s)

☐ Other \_\_\_\_\_

### MISCELLANEOUS

☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months \_\_\_\_\_  
(Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

☐ Other \_\_\_\_\_

### FEES

**The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.**

☐ The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No \_\_\_\_\_

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature

☐ Applicant Signature

Signature of Registered U.S. Patent Practitioner			
Signature	/James Surber/	Date (YYYY-MM-DD)	2010-06-02
Name	James Surber	Registration Number	48381

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450.

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

## Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

## Electronic Patent Application Fee Transmittal

<b>Application Number:</b>	10780661			
<b>Filing Date:</b>	19-Feb-2004			
<b>Title of Invention:</b>	Feminine wipe for symptomatic treatment of vaginitis			
<b>First Named Inventor/Applicant Name:</b>	Syed Rizvi			
<b>Filer:</b>	James B. Surber			
<b>Attorney Docket Number:</b>	976			
Filed as Small Entity				
<b>Utility under 35 USC 111(a) Filing Fees</b>				
<b>Description</b>	<b>Fee Code</b>	<b>Quantity</b>	<b>Amount</b>	<b>Sub-Total in USD(\$)</b>
<b>Basic Filing:</b>				
<b>Pages:</b>				
<b>Claims:</b>				
<b>Miscellaneous-Filing:</b>				
<b>Petition:</b>				
<b>Patent-Appeals-and-Interference:</b>				
<b>Post-Allowance-and-Post-Issuance:</b>				
<b>Extension-of-Time:</b>				
Extension - 3 months with \$245 paid	2253	1	310	310



Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Miscellaneous:				
Total in USD (\$)				310

## Electronic Acknowledgement Receipt

<b>EFS ID:</b>	7728731
<b>Application Number:</b>	10780661
<b>International Application Number:</b>	
<b>Confirmation Number:</b>	2178
<b>Title of Invention:</b>	Feminine wipe for symptomatic treatment of vaginitis
<b>First Named Inventor/Applicant Name:</b>	Syed Rizvi
<b>Customer Number:</b>	67911
<b>Filer:</b>	James B. Surber
<b>Filer Authorized By:</b>	
<b>Attorney Docket Number:</b>	976
<b>Receipt Date:</b>	02-JUN-2010
<b>Filing Date:</b>	19-FEB-2004
<b>Time Stamp:</b>	13:54:07
<b>Application Type:</b>	Utility under 35 USC 111(a)

### Payment information:

Submitted with Payment	yes
Payment Type	Credit Card
Payment was successfully received in RAM	\$310
RAM confirmation Number	169
Deposit Account	
Authorized User	

### File Listing:

Document Number	Document Description	File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)
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1		Response.pdf	115389 aa7534b3a8895e2a624cb379b90de1cace23d8a2	yes	9
	<b>Multipart Description/PDF files in .zip description</b>				
	<b>Document Description</b>		<b>Start</b>	<b>End</b>	
	Amendment After Final		1	8	
	Extension of Time		9	9	
<b>Warnings:</b>					
<b>Information:</b>					
2	Request for Continued Examination (RCE)	RCE.pdf	36145 438dbc260a16e1e005b02557342fa4b83969c2d3	no	3
<b>Warnings:</b>					
This is not a USPTO supplied RCE SB30 form.					
<b>Information:</b>					
3	Fee Worksheet (PTO-875)	fee-info.pdf	29913 5aff71dfd93a5f2c0346d843006e3c131ff3594e	no	2
<b>Warnings:</b>					
<b>Information:</b>					
<b>Total Files Size (in bytes):</b>			181447		
<p><b>This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.</b></p> <p><b><u>New Applications Under 35 U.S.C. 111</u></b>  <b>If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.</b></p> <p><b><u>National Stage of an International Application under 35 U.S.C. 371</u></b>  <b>If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.</b></p> <p><b><u>New International Application Filed with the USPTO as a Receiving Office</u></b>  <b>If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.</b></p>					